

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOSHUA GOODWIN,

Plaintiff,

v.

ORDER
12-CV-362

SGT. G. HUNGERFORD
SGT. FELE, JOHN DOE,
C.O. J. EDGAR,
S-C.O. JOHN DOE, and
C.O. JOHN DOE

Defendants.

The instant case, involving federal constitutional claims pursuant to 42 U.S.C. §1983, was referred to Magistrate Judge Leslie G. Foschio pursuant to 28 U.S.C. §636(b)(1). Plaintiff, who is proceeding *pro se*, alleges that he was denied due process in violation of the Fourteenth Amendment and that defendants failed to protect him in violation of the Eighth Amendment. The claims arise from an incident where plaintiff, while incarcerated at Southport Correctional Facility, allegedly sustained injuries when forced by defendants to walk downstairs in full mechanical restraints. Defendants filed a motion to dismiss for failure to state a claim. (Dkt. No. 9). Plaintiff filed a motion for enlargement of time to conduct additional discovery. (Dkt. No. 15).

On March 24, 2014, Magistrate Judge Foschio issued a Report,

Recommendation and Order recommending that defendants' motion to dismiss be granted and ordering that plaintiff's request for an enlargement of time be denied. (Dkt. No. 19). Plaintiff filed objections on April 11, 2014 (Dkt. No. 20), defendants filed a response on May 8, 2014 (Dkt. No. 87), and plaintiff filed a reply on May 27, 2014. The Court then deemed the matter submitted without oral argument.

Pursuant to 28 U.S.C. §636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review, and after reviewing the submissions from the parties, the Court hereby adopts the Magistrate Judge's recommendations and findings in their entirety.

Accordingly, for the reasons set forth in Magistrate Judge Foschio's Report, Recommendation and Order, plaintiff's motion for an enlargement of time is denied and defendants' motion to dismiss for failure to state a claim is granted. The Court also finds that, for the reasons set forth in the Magistrate Judge's Report, Recommendation and Order, leave to amend would be futile. The complaint is dismissed in its entirety and with prejudice, and the Clerk of the Court is instructed to close the case.

SO ORDERED.

Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: March 27, 2015